

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2002-112-T - ORDER NO. 2004-458

OCTOBER 5, 2004

IN RE:	Application of Marion J. McDowell, 1120 N.)	ORDER
	Elmgrove Avenue, Florence, SC 29506)	REINSTATING
	(District 6) for a Class C Certificate of Public)	CERTIFICATE
	Convenience and Necessity.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Application filed by Marion J. McDowell (“Applicant” or “McDowell”) to reinstate Class C Certificate of Public Convenience and Necessity No. 7211 (“Certificate”). Certificate No. 7211 was issued to McDowell by Commission Order No. 2002-295, dated April 16, 2002.

By Commission Order No. 2004-239, dated May 4, 2004, issued in Docket No. 2004-123-T, a Rule to Show Cause Hearing was set for holders of Certificates of Public Convenience and Necessity that had failed to file the required evidence of insurance and had failed to comply with the statutes governing operations of Motor Vehicle Carriers in South Carolina. The holders of Certificates addressed in Order No. 2004-239 were given thirty (30) days from the date of receipt of the Order to respond to the allegations of their failure to comply with the requirements stated above. The record reflects that McDowell was a respondent to the Rule to Show Cause for failure to file the required evidence of insurance.

For those motor carriers who had not responded to the prior notifications of noncompliance, a public hearing regarding this matter was held on Wednesday, July 21, 2004, at 11:30 a.m. The Commission found that the Certificates of Public Convenience

and Necessity held by certain carriers should be revoked and cancelled for the continued, willful violation by these carriers of the Commission's Rules and Regulations and/or the South Carolina statutes governing Motor Vehicle Carriers [S.C. Code Ann. Section 58-23-10 et. seq. (1976)], with the specific violation being the failure to maintain insurance coverage as required. Accordingly, the Commission issued Order No. 2004-370, dated September 2, 2004, which cancelled McDowell's Certificate No. 7211.

By letter received September 22, 2004, the Applicant requests that the Certificate in question be reinstated.

At its regularly scheduled meeting on September 30, 2004, the Commission reviewed the case before it and after due consideration, the Commission concludes that the above-mentioned Certificate should be reinstated, subject to compliance with all the applicable statutes and the Commission's Rules and Regulations.

IT IS THEREFORE ORDERED:

1. That Class C Certificate of Public Convenience and Necessity No. 7211 in the name of Marion J. McDowell be, and hereby is, reinstated, subject to compliance with all Commission Rules and Regulations within sixty (60) days of the date of this Order.

2. That all operating rights authorized under the Certificate are hereby reinstated, subject to compliance with all applicable statutes and the Commission's Rules and Regulations within sixty (60) days of the date of this Order.

3. That prior to compliance with the applicable statutes and the Commission's Rules and Regulations, including the requirements of filing proof of

insurance and an acceptable safety rating, the motor carrier services authorized by the Certificate shall not be provided.

4. Failure of the Applicant either (1) to complete the certification process by complying with the Commission requirements of causing to be filed with the Commission proof of appropriate insurance and the payment of license fees and such other information required by law within sixty (60) days of the date of this Order or (2) to request and obtain from the Commission additional time to comply with the requirements of the Commission as stated above, shall result in the authorization approved in the Order being revoked.

5. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
G. O'Neal Hamilton, Vice Chairman

(SEAL)